

November 18, 2010

2010 NOV 30 PM 12:00

Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

OFFICE OF GENERAL
COUNSEL

Dear General Counsel:

I am writing you to file this complaint against Karen Harrington (the candidate) for violations of the Federal Election Campaign Act.

2 U.S.C. § 439a(b) reads as follows:

MUR # 6437

§ 439a. Use of contributed amounts for certain purposes

(a) Permitted uses

A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

- (1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;
- (2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;
- (3) for contributions to an organization described in section 170 (c) of title 26;
- (4) for transfers, without limitation, to a national, State, or local committee of a political party;
- (5) for donations to State and local candidates subject to the provisions of State law; or
- (6) for any other lawful purpose unless prohibited by subsection (b) of this section.

(b) Prohibited use

(1) In general

A contribution or donation described in subsection (a) of this section shall not be converted by any person to personal use.

(2) Conversion

For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including—

- (A) a home mortgage, rent, or utility payment;
- (B) a clothing purchase;
- (C) a noncampaign-related automobile expense;
- (D) a country club membership;
- (E) a vacation or other noncampaign-related trip;
- (F) a household food item;
- (G) a tuition payment;
- (H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and
- (I) dues, fees, and other payments to a health club or recreational facility.

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(c) Restrictions on use of campaign funds for flights on noncommercial aircraft

(1) In general

Notwithstanding any other provision of this Act, a candidate for election for Federal office (other than a candidate who is subject to paragraph (2)), or any authorized committee of such a candidate, may not make any expenditure for a flight on an aircraft unless—

(A) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules; or

(B) the candidate, the authorized committee, or other political committee pays to the owner, lessee, or other person who provides the airplane the pro rata share of the fair market value of such flight (as determined by dividing the fair market value of the normal and usual charter fee or rental charge for a comparable plane of comparable size by the number of candidates on the flight) within a commercially reasonable time frame after the date on which the flight is taken.

(2) House candidates

Notwithstanding any other provision of this Act, in the case of a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, an authorized committee and a leadership PAC of the candidate may not make any expenditure for a flight on an aircraft unless—

(A) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules; or

(B) the aircraft is operated by an entity of the Federal government or the government of any State.

(3) Exception for aircraft owned or leased by candidate

(A) In general

Paragraphs (1) and (2) do not apply to a flight on an aircraft owned or leased by the candidate involved or an immediate family member of the candidate (including an aircraft owned by an entity that is not a public corporation in which the candidate or an immediate family member of the candidate has an ownership interest), so long as the candidate does not use the aircraft more than the candidate's or immediate family member's proportionate share of ownership allows.

(B) Immediate family member defined

In this subparagraph (A), the term "immediate family member" means, with respect to a candidate, a father, mother, son, daughter, brother, sister, husband, wife, father-in-law, or mother-in-law.

(4) Leadership PAC defined

In this subsection, the term "leadership PAC" has the meaning given such term in section 434 (1)(8)(B) of this title.

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Discussion:

During the campaign for United States House of Representatives, Florida's 20th District, leading up to the November 2, 2010 election, the candidate regularly ran television campaign advertisements promoting a business establishment and produces that the candidate:

- has an ownership interest in and/or,
- has and will continue to receive personal monetary gain from.



During the portion of the advertisement above, the candidate proclaims "...and make the best chicken wings in South Florida."



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In the two clips above, the candidate's campaign must have spent a significant and identifiable amount of money to include the "b-roll" of the two different clips of the Rickey's name as well as the two different bar scenes in the campaign commercial.

Approximately one third, twenty one seconds of the sixty total, of the entire advertisement is promoting either the establishment or its products, ending with the toddler proclaiming "I like chicken wings".

This video was also available on the candidate's web site as well as Youtube.

Under 2 U.S.C. § 439a(b), in general, it is a prohibited practice to convert campaign funds to personal use.

(b) Prohibited use

(1) In general

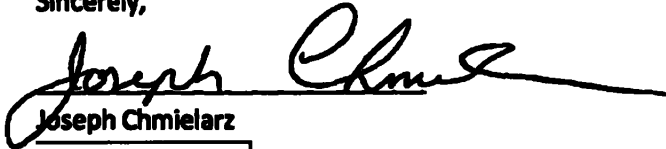
A contribution or donation described in subsection (a) of this section shall not be converted by any person to personal use.

And although the candidates use of campaign funds did not specifically fall under the examples of "conversion" listed in subsection(2), it falls under the general subsection (1) and by use of the word "including" in subsection(2), subsection (2) can only be interpreted to only present some examples of conversion, not an exhaustive list under the statute.

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For the foregoing reasons, I ask that the Commission investigate this matter and seek appropriate penalties as permitted by law.

Sincerely,


Joseph Chmielarz

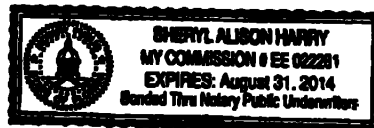
Southwest Ranches, FL 33331

SIGNED AND SWORN to before me this 18th day of November, 2010.


Notary Public

My Commission Expires:

August 31, 2014



Enclosure: DVD's with campaign commercial.

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